

TEXT OF PROPOSED REGULATIONS

In the following text, underlining indicates added or amended text; ~~strikeout~~ indicates deleted text.

Section 3040 is amended to read:

3040. Participation.

(a) Every able-bodied person committed to the custody of the Director of Corrections is ~~subject to an obligation~~ed to work as assigned by department staff and by personnel of other agencies to whom the inmate's custody and supervision may be delegated. Assignment This may be to a full day of work, education, or other program activity, or to a combination of work and education or other program activity.

(b) Inmates engaged in productive work may receive compensation as determined by the Director or designee with the approval of the Director of the Department of Finance. The institution shall make any determination of which inmate assignments may be paid positions and the rate of pay assigned to the position in accordance with subsection 3041.2 and pursuant to the budget allotted for such assignments.

~~(c)~~ Inmates assigned to a physical fitness program as part of a work incentive program shall be held to meet the same obligations/participation requirements governing ~~any other inmate assigned to a~~ vocational, educational, or work assignments.

~~(d)~~ A classification committee shall assign each inmate to an appropriate work, education, vocation, therapeutic or other institution programs, taking into account in ~~consideration of~~ the:

- (1) Inmate's expressed desires and needs.
- (2) Inmate's eligibility for and availability of the desired work or program activity.
- (3) Institution's security and operational needs.

(4) Safekeeping of the inmate.

(5) Safety of persons and the general public.

(ed) ~~Despite~~ In lieu of an inmate's assignment to a program mutually agreed upon ~~program as arrived at in a hearing before~~ a classification committee hearing; or pending such a hearing; or pending assignment to a designated program; or during any period when the designated program is temporarily suspended; or in the absence of the inmate's agreement to participate in any program activity, any able-bodied inmate may be assigned to perform any work deemed necessary to maintain and operate the institution and its services in a clean, safe and efficient manner. Operational needs may always override a program assignment.

(fe) Inmates assigned to clerical duties and office work positions, ~~such as clerks and teachers' aides,~~ requiring an extensive amount of staff/inmate interaction, such as clerks and teachers' aides, shall be rotated at regular intervals to other positions within the institution even though that may result in lower pay or no pay at all to the inmate being rotated out of the position. The institution head shall determine the rotation schedule based upon security needs of the institution. Assignments to such positions shall not exceed a two-year period. Routine rotation shall not affect the inmates' work/training group designation, although it may divest the inmate of a paid position. Inmates not rotated directly to another position shall continue to earn "S" time pursuant to Section 3045.3(b)(14).

(gf) Any staff request for removal of an inmate from a program shall be submitted to the inmate's correctional counselor on a CDC General Chrono Form ~~428-B~~. The counselor shall refer the request to a classification committee for consideration and

action. If the request is for cause, defined as behavior that would result in loss of participation credit pursuant to section 3043.2(a), the inmate may be temporarily relieved of the position and denied pay (if a paid position), pending classification committee action.

(hg) Work assignments, in lieu of enrollment and participation in education, vocational, therapeutic or other institution program assignments, may be made with or without the inmate's consent by a classification committee, a staff member designated as an inmate assignment officer, or by any staff member responsible for the supervision of an unassigned inmate.

(ih) Inmates who have a history of computer fraud or abuse, including documented institutional disciplinary action involving computer fraud or abuse, shall not be placed in any vocational or work assignment that provides access to a computer.

(ii) A job description shall be developed for each inmate work/training position, establishing the minimum ~~acceptable~~ standards of acceptable participation and performance and the possible consequences of failure or refusal to meet the standards. The inmate shall sign ~~and be given~~ a copy of the job description, indicating acceptance of the conditions of employment, and shall receive a copy.

(k) The allocation of paid inmate work/training assignments on an institution-specific basis shall be made by the institution's inmate pay committee. Each institution shall administer an inmate pay program consistent with the budget allotted for such assignments. As directed and in accordance with section 3380, Department and institutional inmate pay committees shall administer inmate rate and wage matters subject to these regulations.

(l) An inmate's assignment to a paid position is a privilege dependent on available funding, job performance, seniority and conduct. These factors shall be criteria considered in determining an inmate's eligibility for pay earning status and rate of pay.

(m) The following inmate assignments shall not be considered paid work/training assignments:

(1) Inmate advisory council members (except the chairperson and secretary).

(2) Vocational student assignments (however, exceptions may be made where the inmate is enrolled in a bona fide apprenticeship program or performs work that provides a benefit to the institution and/or public).

(3) Academic student assignments.

(4) Substance abuse or therapeutic program assignments.

(5) Any other specific work/training assignment deemed "non-pay" by the inmate pay committee of the institution/facility.

NOTE: Authority cited: Sections 2700 and 5058, Penal Code. Reference: Section 1182, Labor Code; Sections 502, 2079, 2702, 2933, 5054 and 5068, Penal Code.

Section 3040.1. is unchanged.

Section 3041. is amended to read:

3041. Performance.

(a) Inmates must perform assigned tasks diligently and conscientiously. Inmates must not pretend illness, or otherwise evade attendance or avoid ~~and~~ performance in assigned work and program activities, or encourage others to do so.

(b) Inmates must report to their place of assignment at the time designated by the institution's schedule of activities and as instructed by their assignment supervisor. Inmates may not leave an assignment without permission to do so.

(1) Time and payroll credits for paid inmate workers shall be documented on time cards and logs maintained by work supervisors in accordance with section 3045.

(2) The duration of an unauthorized absence from a compensated assignment shall be documented and under no circumstances shall an inmate be paid under the authority of section 3041.2 for time not worked.

Subsections 3041(c) through 3041(e) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Sections 2297, 2318, 2320, and 1798 et seq., Civil Code.

Section 3041.1 is amended to read:

3041.1. Paid Inmate Work/Training Assignment Criteria.

(a) Inmate work/training supervisors, in accordance with section 3040(d), shall fill vacant paid inmate assignments with inmates, based on the following criteria factors:

(1a) Skill level evidenced by the inmate's technical expertise, ability, and knowledge.

(2b) Behavior and relationships with others evidenced by the inmate's ability to deal with staff and other authority figures, work/training supervisors, and other inmates.

(3c) Attitude and adaptability evidenced by the inmate's willingness to learn and to take directions.

(4d) Work/training habits evidenced by the inmate's punctuality, dependability, care of equipment, and safety practices.

(5e) Formal education and training evidenced by the inmate's preparation for the assignment and ability to read, write, and speak effectively.

(6f) Mission and physical plant of the institution/facility.

~~(7) Ethnic balance of those inmate assignments that the work supervisor is responsible for filling. Ethnic balance is achieved by having the percentage of the facility's White, Black, Hispanic, American Indian, and oOther identified ethnicities in the inmates population proportionately represented in the number of inmate paid assignments which is compared to and reflects the percentage of at the facility's total population for each group.~~

(b) Each institution/facility shall establish an application process for selection of skilled workers to fill paid positions.

(c) Inmates assigned to paid positions will be paid from the fund or allotment of the institution's/facility's support budget.

(d) All paid work/training assignments shall be ranked in sequential order of technical skill required. The United States Department of Labor Dictionary of Occupational Titles (DOT) shall be used to maintain consistency throughout the Department when determining skill levels.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Section 3041.2 is amended to read:

3041.2. Inmate Pay Rates, Schedule and Exceptions.

~~(a) Pay rates established at each facility for paid inmate assignments shall be commensurate with the level of skill and productivity required, of each assignment at such facility in accord with the following general pay schedule adopted and revised (when necessary) by the Director with the assistance of the Departmental Inmate Pay Committee):-~~

(1) Pay Schedule

<u>Skill Level</u>	<u>Minimum/Maximum Hourly</u>		<u>Minimum/Maximum Monthly</u>	
<u>Level 1</u>	<u>DOT Skill Level 9</u>			
<u>Lead person</u>	<u>\$.032</u>	<u>\$0.37</u>	<u>\$48</u>	<u>\$56</u>
<u>Level 2</u>	<u>DOT Skill Levels 7-8</u>			
<u>Special Skill</u>	<u>\$0.19</u>	<u>\$0.32</u>	<u>\$29</u>	<u>\$48</u>
<u>Level 3</u>	<u>DOT Skill Levels 5-6</u>			
<u>Technician</u>	<u>\$0.15</u>	<u>\$0.24</u>	<u>\$23</u>	<u>\$36</u>
<u>Level 4</u>	<u>DOT Skill Levels 3-4</u>			
<u>Semi-Skilled</u>	<u>\$0.11</u>	<u>\$0.18</u>	<u>\$17</u>	<u>\$27</u>
<u>Level 5</u>	<u>DOT Skill Levels 1-2</u>			
<u>Laborer</u>	<u>\$0.08</u>	<u>\$0.13</u>	<u>\$12</u>	<u>\$20</u>

(2) Monthly rates shall apply to full time employment in the job classifications and shall be paid from the support budget or inmate welfare funds. Hourly rates shall apply to half time and partial full time paid employment.

(b) Exceptions to the above schedule may be made in extraordinary circumstances. A wage comparable to that paid to inmates in the Prison Industry Authority inmate pay program may be paid for special projects or assignments that require a high degree of skill or expertise. Other exceptions may also be made in order to fill positions when recruitment or retention of inmate workers is a problem. Any exceptions based upon this subsection shall require approval, review and justification on an annual basis by the institution head or designee.

(c) Pay increases shall not be automatic or based on the inmate's longevity in an assignment. ~~Increases~~ Raises or reductions in ~~the an~~ inmate's pay rate shall be based

on the work/training supervisor's recommendation, ~~and the inmate's work/training performance reports, subject to review and approval of the work/training incentive coordinator and the inmate assignment authority.~~

~~(de) Inmates may receive a pay increase only on a quarterly basis and only until the maximum pay rate for that assignment is obtained~~ When assigned to a job requiring a higher skill level than the skill level required of the inmate's previous job assignment, the inmate shall not initially be paid less than the amount of pay the inmate received for the job requiring less skill.

(e) Inmate performance rating and total hours in job categories shall be reviewed when changes in job classifications are being considered. Inmates approved for advancement to a higher skill classification shall enter the new classification at a pay grade equal or greater to their previous pay grade in the lower skill, unless the new assignment is to a non-paid position.

~~(fe) The reason for any reduction in the rate of pay provided an inmate, an inmate's pay rate, including either removing the pay status or decreasing the pay level from their assignment an assigned position or reassigning the inmate to a non-paid or lower-paid position, shall be documented in~~ for the inmate's central file as follows:

(1) When the reason for a pay reduction is misconduct, including the inmate's willful refusal or failure to work as directed, the matter shall be reported in accordance with section 3315 on a CDC Form 115, Rules Violation Report.

(2) When the reason for a pay reduction is not the fault of the inmate, including their inability to satisfactorily perform the required duties after a reasonable effort to do so, the matter shall be documented on a CDC Form 128-B (Rev. 4-74), General Chrono.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2811 and 5054, Penal Code.

Section 3043.5 is amended to read:

3043.5. Credit Earning Special Assignments.

(a) Special assignments include:

(1) Inmate advisory council. The positions of Assignment as chairperson and or secretary ~~vice chairperson~~ of an institution's inmate advisory council may ~~shall~~ be a full-time positions assignment in Work Group A-1. ~~Only two such assignments shall be authorized at each departmental facility.~~

Subsections 3043.5(a)(2) through 3043.5(g) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933, 5054 and 5068, Penal Code.